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SENSITIVE

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SUBJECT: OPPOSITION LEADER HANDED 7 YEAR SENTENCE

REFS: 09 YEREVAN 831

09 YEREVAN 807

09 YEREVAN 463

09 YEREVAN 451

09 YEREVAN 441

09 YEREVAN 440

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SUMMARY

¶1. (SBU) On January 19, a Yerevan court controversially convicted and sentenced to seven years' jail time Nikol Pashinian, one of the most prominent opposition leaders who challenged the results of the disputed 2008 presidential election. Pashinian, who went into hiding in March 2008 after the authorities launched a widespread crackdown on the opposition, turned himself in last July in the hopes that he would qualify for a general amnesty declared in June. Instead, Pashinian, who was found guilty of "organization of mass disorders," was handed a seven-year sentence that renders him ineligible for the amnesty -- at least for now. Opposition officials denounced the verdict and length of the sentence, which exceeded the six years requested by the prosecution, as proof of President Sargsian's mission to destroy the political opposition. If the harsh punishment meted out to Pashinian is not changed, this development will do nothing to foster the national political reconciliation Armenia still needs in order to put the 2008 events behind it. END SUMMARY.

PASHINIAN FOUND GUILTY

¶2. (SBU) On January 19, after a three-month trial (ref A), a Yerevan court found Nikol Pashinian, editor-in-chief of a leading opposition daily and one of the most prominent opposition leaders to challenge the 2008 presidential election results, guilty of "organization of mass disorders" (accompanied with violence). The crime that Pashinian allegedly committed took place during post-election protests on March 1-2, 2008, which culminated in pitched battles with riot police that left ten dead. (The judge handed Pashinian a seven-year sentence for this alleged crime and acquitted Pashinian of a second charge, alleged violence against state authorities (kicking a police officer in the leg during an election campaign event)).

HIGHER SENTENCE MEANS NO AMNESTY (YET)

¶3. (SBU) In December 2009, prosecutors requested sentences of six and two years respectively for the alleged crimes ("organization of mass disorder" and "violence against state authorities"). While

dismissing the second charge entirely, the judge -- the same judge who has presided over other cases involving prominent opposition figures -- handed down a longer-than-requested sentence of seven years for the "mass disorder" charge. ."

¶4. (SBU) Under the general amnesty declared by parliament in June 2009 that resulted in the release of all but 15 or so of the scores of oppositionists jailed after the post-election unrest, persons convicted of crimes with sentences exceeding five years are ineligible for the amnesty. Although Pashinian may have been hoping that his voluntary surrender last July would qualify him for the amnesty, he now appears out of luck.

¶5. (SBU) In its verdict, the court notably did not refer to the June 2009 amnesty (refs B-E). According to that law, which is inartfully drafted, complete amnesty applies to persons who received sentences not exceeding five years of imprisonment. Under that same law, however, a partial reduction in sentence applies to certain persons who would not otherwise qualify for complete amnesty. According to Post's Resident Legal Advisor, it appears that Pashinian does qualify to have his sentence reduced under the amnesty by one-half, which would give him a sentence of three and one-half years (he has served less than one year at present). It remains to be seen whether the court will apply that amnesty provision in its final written verdict.

¶6. (SBU) Independent of the possibility of amnesty or a partial reduction in sentence, Pashinian's defense can and will almost certainly seek an acquittal verdict on appeal. As sentences are often reduced on appeal in Armenia, it is possible that the appellate court could do so, although it has not in other cases of high-profile opposition figures.

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SARGSIAN SEEKS OPPOSITION'S DEMISE/CAPITULATION

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¶7. (SBU) Leaders of the opposition Armenian National Congress (ANC) fumed to Poloffs on January 20 that Pashinian's ruling was unlawful, ordered by the authorities, and part of President Sargsian's ongoing campaign "to destroy the opposition." Levon Zurabian, the ANC's Coordinator, and Davit Shahnazarian, an ANC senior advisor, warned that the ruling will make it harder for them to contain the ANC's more radical elements who are pushing for a resumption of protest rallies that ANC leader ex-President Levon Ter-Petrosian suspended in September 2009. Stepan Safarian and Armen Martirosian, MPs of the opposition Heritage Party, told Poloffs on January 20 that Pashinian's verdict reflects "the authorities' desire that the opposition capitulate totally." They said the seven-year verdict made no sense juridically, but politically signals the authorities' fear of Pashinian's ability to mobilize popular support for the opposition cause.

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"FAIR TRIAL" ON THE SURFACE ...
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¶8. (SBU) According to Post's Resident Legal Advisor, who observed Pashinian's court hearings, Pashinian received a fair trial as far as the procedures are concerned. The public and press were allowed inside the courtroom; the defendant and his attorneys were allowed to cross-examine witnesses and call their own witnesses; and the defense was never denied the substantive right to speak on any trial issue.

¶9. (SBU) Moreover, there was some testimony given to support the state's charges. Some civilian witnesses testified that they heard Pashinian make inflammatory statements on March 1, urging protesters to pick up objects from the ground (rocks, metal) in order to defend themselves. According to the testimony, Pashinian also encouraged protesters to "fight to the end," proclaimed that it was "a revolution," and made similarly provocative statements. This testimony appears more or less in keeping with the recollection of Emboffs who, despite not observing Pashinian on March 1, saw him in

action during the ten preceding days of around-the-clock protests.

... BUT IS THE SENTENCE FAIR, PROPORTIONATE?

¶10. (SBU) Although the conduct of the trial appeared aboveboard, Post's view is that the conviction and initial sentence are clearly disproportionate to the alleged crime (the delivery of a fiery speech in the midst of an unauthorized political protest). No direct correlation linking Pashinian's provocative statements and organizing mass disorders were proven. That other opposition defendants who were found guilty under the same charge received a lighter sentence and qualified for complete amnesty also calls into question Pashinian's sentence.

¶11. (U) In condemning the lengthy sentence, the opposition "Hayk" biweekly noted that the judge who issued the sentence was also the same judge who gave a two-year suspended jail sentence to a bodyguard of former President Robert Kocharian after the former beat to death a man in a Yerevan caf in 2002. (Note: The street version is that the victim, who was inebriated at the time, offended Kocharian when he addressed the President as "Bob." End Note.)

COMMENT

¶12. (SBU) We never had any illusions that the verbally provocative Pashinian would be found not guilty, given his exceptionally high-profile role in post-election protests and the punishment meted out to fellow opposition leaders who challenged the 2008 election results with him. The severe sentencing, however, is at stark variance with President Sargsian's numerous public statements calling on Armenian society to unify "as tight as a fist." If Pashinian's punitive sentence sticks, we see it only rubbing more salt in the opposition's wounds, and perpetuating the political tension and malaise that have beset Armenian society since the 2008 events. Opposition warnings that the verdict could lead to further street protests are -- in our view -- overblown. As we have reported, the opposition movement has appeared to be in a steady decline for months, and probably no longer has the ability to bring significant numbers of Armenians into the streets.

YOVANOVITCH